

AMENDED IN SENATE AUGUST 22, 2014
AMENDED IN ASSEMBLY APRIL 29, 2013
AMENDED IN ASSEMBLY MARCH 14, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 885

Introduced by Assembly Member Ammiano

February 22, 2013

An act to add Section 1127j to the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 885, as amended, Ammiano. Discovery: prosecutorial duty to disclose information.

Existing law requires the prosecuting attorney to disclose to the defendant or his or her attorney certain materials and information, including statements of all defendants and any exculpatory evidence, as specified.

This bill would ~~require~~ *authorize* a court in any criminal trial or proceeding in which the court has determined that the prosecuting attorney has *intentionally or knowingly* failed to disclose certain materials and information, as specified, to instruct the jury that the failure to disclose has occurred and that the jury ~~may~~ *shall* consider the failure as circumstantial evidence to support the presence of reasonable doubt. ~~to disclose in determining whether reasonable doubt of the defendant's guilt exists.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1127j is added to the Penal Code, to read:
2 1127j. (a) In any criminal trial or proceeding in which the
3 court determines that the prosecuting attorney has *intentionally or*
4 *knowingly* failed to disclose specified materials and information
5 required under current law, including Section 1054.1, *except*
6 *subdivision (a) of that section*, and Brady v. Maryland (1963) 373
7 U.S. 83, the court ~~shall~~ *may* instruct the jury that the intentional
8 or *knowing* failure to disclose the materials and information
9 occurred and that the jury ~~may~~ *shall* consider the *intentional or*
10 *knowing* failure to disclose ~~as circumstantial evidence to support~~
11 ~~the presence of reasonable doubt. in determining whether~~
12 ~~reasonable doubt of the defendant's guilt exists.~~
13 (b) Nothing in this section shall be construed to limit any other
14 remedy available under law.